Permit No: VA00003018
Effective Date: May 16, 2010
Expiration Date: May 15, 2015

AUTHORIZATION TO DISCHARGE UNDER THE

VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM

AND

THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, the following owner is authorized to discharge in accordance with the information submitted with the permit application, and with this cover page, and Parts I and II of this permit, as set forth herein.

Owner: Western Refining Yorktown Incorporated
Facility Name: Western Refining Yorktown Incorporated
City: Yorktown
County: York
Facility Location: 2201 Godwin Neck Road, Yorktown, VA 23692

The owner is authorized to discharge to the following receiving stream:

Stream: York River
River Basin: York River Basin
River Subbasin: York River Subbasin
Section: 1
Class: II
Special Standards: a, NEW-17

_____

Francis L. Daniel

_____

Date

PART I

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall(s): 001 (Final discharge of treated process and sanitary wastewaters (internal Outfall 101, and once-through cooling waters (internal Outfall 102)).

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	Monthly Average	Weekly Average	Minimum	Maximum	Frequency	Sample Type
Flow (MGD)	NL	NA	NA	NL	1/Week	Estimate
pH (S.U.)	NA	NA	6.0	9.0	1/Week	Grab
Total Phosphorus (mg/l)	2.0	NA	NA	NA	1/Week	24HC

NA = Not Applicable.
NL = No limitation, however, reporting is required.
24HC = 24-hour composite consisting of grab samples collected at hourly intervals and combined in proportion to flow.

Upon issuance of the permit, Discharge Monitoring Reports (DMRs) shall be submitted to the regional office at the frequency required by the permit regardless of whether an actual discharge occurs. In the event that there is no discharge for the monitoring period, then “no discharge” shall be reported on the DMR.

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

PART I

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall(s): 101 (Internal discharge of treated process and sanitary wastewaters, contaminated precipitation runoff from areas associated with refinery operations, and contaminated hydrostatic test waters).

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	Monthly Average	Weekly Average	Minimum	Maximum	Frequency	Sample Type
Flow (MGD)	NL	NA	NA	NL	Continuous	Totalized and Recorded
pH (S.U.)	NA	NA	6.0	9.0	Continuous	Recorded
BOD_5 (lbs/d)	550	NA	NA	990	1/Week	24HC
Total Suspended Solids (lbs/d)	440	NA	NA	690	1/Week	24HC
Total Organic Carbon (lbs/d)	1200	NA	NA	2200	1/Week	24HC
Oil & Grease (lbs/day)	160	NA	NA	300	1/Week	Grab
Ammonia (as N) (lbs/d))	280	NA	NA	620	1/Week	24HC
Total Phenols (lbs/d)	3.0	NA	NA	7.4	1/Week	Grab
Sulfide (lbs/d)	2.7	NA	NA	6.1	1/Week	24HC
Total Chromium (lbs/d)	3.6	NA	NA	10	1/Month	24HC
Hexavalent Chromium (lbs/d)	0.31	NA	NA	0.68	1/Month	Grab
Fecal Coliform (N/CML)[a]	200	NA	NA	NA	2/Month	Grab
Enterococci (N/CML)[b]	35	NA	NA	NA	2/Month	Grab

NA = Not Applicable.
NL = No limitation, however, reporting is required.
2/Month = Two samples taken during the calendar month, no less than two weeks apart.
24HC = 24-hour composite consisting of grab samples collected at hourly intervals and combined in proportion to flow.

[a] Fecal Coliform monthly average is calculated as a geometric mean.
[b] Enterococci monthly average is calculated as a geometric mean.

Upon issuance of the permit, Discharge Monitoring Reports (DMRs) shall be submitted to the regional office at the frequency required by the permit regardless of whether an actual discharge occurs. In the event that there is no discharge for the monitoring period, then “no discharge” shall be reported on the DMR.

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall(s): 102 (Internal discharge of once-through cooling waters).

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	Monthly Average	Weekly Average	Minimum	Maximum	Frequency	Sample Type
Flow (MGD)	NL	NA	NA	NL	1/Week	Estimate
Temperature (^{o}C)	NA	NA	NA	44	Continuous	I.S.
Net Total Organic Carbon (mg/l)	NA	NA	NA	5.0	1/Week	24HC
Fecal Coliform (N/CML)[a]	200	NA	NA	NA	2/Month	Grab
Enterococci (N/CML)[b]	35	NA	NA	NA	2/Month	Grab

NA = Not Applicable.
NL = No limitation, however, reporting is required.
I.S. = Immersion Stabilization
2/Month = Two samples taken during the calendar month, no less than two weeks apart.
24HC = 24-hour composite consisting of grab samples collected at hourly intervals and combined in proportion to flow.

Upon issuance of the permit, Discharge Monitoring Reports (DMRs) shall be submitted to the regional office at the frequency required by the permit regardless of whether an actual discharge occurs. In the event that there is no discharge for the monitoring period, then “no discharge” shall be reported on the DMR.

[a] Fecal Coliform monthly average is calculated as a geometric mean.
[b] Enterococci monthly average is calculated as a geometric mean.

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall(s): 002 (Precipitation runoff associated with a regulated industrial activity, diverted flows from Outfall 101 and/or 102 during necessary site activities, fire main wastewaters, and uncontaminated wastewater from hydrostatic testing, internal Outfall 201).

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	Monthly Average	Weekly Average	Minimum	Maximum	Frequency	Sample Type
Flow (MGD)	NL	NA	NA	NL	1/Week	Estimate
pH (S.U.)	NA	NA	6.0	9.0	1/Week	Grab
Total Organic Carbon (mg/l)	NA	NA	NA	35	1/Week	Grab
Oil & Grease (mg/l)	NL	NA	NA	15	1/Week	Grab
Temperature (^{o}C)	NA	NA	NA	44	Continuous	I.S.
Total Phosphorus (mg/l)	2.0	NA	NA	NL	1/Month	Grab
Total Arsenic (µg/l) [a]	NL	NA	NA	NL	1/Month	Grab
Total Cadmium (µg/l) [a]	NL	NA	NA	NL	1/Month	Grab
Total Chromium (µg/l) [a]	NL	NA	NA	NL	1/Month	Grab
Fecal Coliform (N/CML)[b]	200	NA	NA	NA	2/Month	Grab
Enterococci (N/CML)[c]	35	NA	NA	NA	2/Month	Grab

NA = Not Applicable.
NL = No limitation, however, reporting is required.
I.S. = Immersion Stabilization
2/Month = Two samples taken during the calendar month, no less than two weeks apart.
24HC = 24-hour composite consisting of grab samples collected at hourly intervals and combined in proportion to flow.

Upon issuance of the permit, Discharge Monitoring Reports (DMRs) shall be submitted to the regional office at the frequency required by the permit regardless of whether an actual discharge occurs. In the event that there is no discharge for the monitoring period, then “no discharge” shall be reported on the DMR.

[a] See Parts I.B.5. and I.B.6. for quantification levels and reporting requirements, respectively.
[b] Fecal Coliform monthly average is calculated as a geometric mean.
[c] Enterococci monthly average is calculated as a geometric mean.

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall(s): 201 (Discharges of wastewater generated by hydrostatic testing of storage tanks, conveyance piping, and other equipment associated with refinery operations).

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS [a]	
	Monthly Average	Weekly Average	Minimum	Maximum	Frequency	Sample Type
Flow (MGD)	NL	NA	NA	NL	1/Year	Estimate
pH (S.U.)	NA	NA	6.0	9.0	1/Year	Grab
Total Petroleum Hydrocarbons (mg/l)	NA	NA	NA	15	1/Year	Grab
Benzene (µg/l)	NA	NA	NA	50	1/Year	Grab
Toluene (µg/l)	NA	NA	NA	175	1/Year	Grab
Ethylbenzene (µg/l)	NA	NA	NA	320	1/Year	Grab
Total Xylenes (µg/l)	NA	NA	NA	33	1/Year	Grab
Naphthalene (µg/l)	NA	NA	NA	10	1/Year	Grab
Total Residual Chlorine (mg/l)[b]	NA	NA	NA	NL	1/Year	Grab

NA = Not Applicable.
NL = No limitation, however, reporting is required.
1/Year = Between January 1 and December 31.

Upon issuance of the permit, Discharge Monitoring Reports (DMRs) shall be submitted to the regional office at the frequency required by the permit regardless of whether an actual discharge occurs. In the event that there is no discharge for the monitoring period, then “no discharge” shall be reported on the DMR.

[a] See Part I.B.9. for sampling and monitoring requirements for hydrostatic discharges.
[b] See Parts I.B.5. and I.B.6. for quantification levels and reporting requirements, respectively.

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall(s): 004 (Discharge of wastewater associated with fire main flushing and freeze protection at offshore pier where tank vessels and barges moor during petroleum product transfer activities).

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	Monthly Average	Weekly Average	Minimum	Maximum	Frequency	Sample Type
Flow (MGD)	NL	NA	NA	NL	1/Week	Estimate
pH (S.U.)	NA	NA	6.0	9.0	1/Week	Grab
Fecal Coliform (N/CML)[a]	200	NA	NA	NA	2/Month	Grab
Enterococci (N/CML)[b]	35	NA	NA	NA	2/Month	Grab

NA = Not Applicable.
NL = No limitation, however, reporting is required.
2/Month = Two samples taken during the calendar month, no less than two weeks apart.

Upon issuance of the permit, Discharge Monitoring Reports (DMRs) shall be submitted to the regional office at the frequency required by the permit regardless of whether an actual discharge occurs. In the event that there is no discharge for the monitoring period, then “no discharge” shall be reported on the DMR.

[a] Fecal Coliform monthly average is calculated as a geometric mean.
[b] Enterococci monthly average is calculated as a geometric mean.

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

B. OTHER REQUIREMENTS OR SPECIAL CONDITIONS

1. Permit Reopeners

a. Nutrient Enriched Waters Reopener for Dischargers to the Chesapeake Bay Watershed

This permit may be modified or, alternatively, revoked and reissued to incorporate new or alternative nutrient limitations and/or monitoring requirements should the State Water Control Board adopt new nutrient standards for the waterbody receiving the discharge, including the Chesapeake Bay or its tributaries, or if a future water quality regulation or statute requires new or alternative nutrient control.

b. Total Maximum Daily Load (TMDL) Reopener

This permit shall be modified or, alternatively, revoked and reissued if any approved wasteload allocation procedure, pursuant to Section 303(d) of the Clean Water Act, imposes wasteload allocations, limits or conditions on the facility that are not consistent with the permit requirements.

2. Licensed Operator Requirement

The permittee shall employ or contract at least one Class II licensed wastewater works operator for this facility. The license shall be issued in accordance with Title 54.1 of the Code of Virginia and the regulations of the State Water Control Board for Waterworks and Wastewater Works Operators. The permittee shall notify the Tidewater Regional Office in writing whenever he is not complying, or has grounds for anticipating he will not comply with this requirement. The notification shall include a statement of reasons and a prompt schedule for achieving compliance.

3. Operations and Maintenance (O & M) Manual (Industrial)

The permittee shall review the existing O & M Manual and notify the DEQ Tidewater Regional Office, in writing, that it is still current. This O&M Manual shall include descriptions of the treatment works operations and its contributing sources, and practices necessary to achieve compliance with this permit. The revised Manual shall specifically address: treatment system operation; routine and emergency maintenance; wastewater and/or storm water collection, treatment and disposal/discharge; permitted outfall locations; effluent sampling and preservation procedures; laboratory testing, analysis and recording of results; submittal and retention of all records, reporting forms and testing results; and a

listing of the personnel responsible for the above activities. Also included in the Manual shall be a list of facility, local and state emergency contacts; procedures for reporting and responding to any spills/overflows/ treatment works upsets; a copy of the VPDES/VPA permit; and copies of all reporting forms. If the O&M Manual is no longer current, a revised O&M Manual shall be submitted for approval. Once approved, this revised manual shall become an enforceable condition of this permit. Future changes to the facility must be addressed by the submittal of a revised O & M Manual. Non-compliance with the O & M Manual shall be deemed a violation of the permit.

Letter/Revised Manual Due: No later than August 15, 2010

4. Notification Levels

The permittee shall notify the Department as soon as they know or have reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) One hundred micrograms per liter (100 ug/l);
(2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
(3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
(4) The level established by the State Water Control Board.

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) Five hundred micrograms per liter (500 ug/l);
(2) One milligram per liter (1 mg/l) for antimony;
(3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application.
(4) The level established by the State Water Control Board.

5. Quantification Levels Under Part I.A.

a. The maximum quantification levels (QL) shall be as follows:

Effluent Characteristic	Quantification Level
Arsenic	50 µg/l
Cadmium	30 µg/l
Chromium	900 µg/l
Chlorine	0.1 mg/l

b. The permittee may use any approved method which has a QL equal to or lower than the (QL) listed in 6.a above. The QL is defined as the lowest concentration used to calibrate a measurement system in accordance with the procedures published for the method.

6. Compliance Reporting Under Part I.A.

a. Monthly Average -- Compliance with the monthly average limitations and/or reporting requirements for the parameters listed in Part I.B.5.a. shall be determined as follows: All data below the quantification level (QL) listed in Part I.B.5.a. above shall be treated as zero. All data equal to or above the QL listed in Part I.B.5.a. above shall be treated as it is reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, for the month. This arithmetic average shall be reported on the DMR as calculated. If all data are below the QL, then the average shall be reported as <QL.

b. Daily Maximum -- Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in Part I.B.5.a. shall be determined as follows: All data below the quantification level (QL) listed in Part I.B.5.a. above shall be treated as zero. All data equal to or above the QL shall be treated as reported. An arithmetic average of the values shall be calculated using all reported data, including the defined zeros, collected for each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL, then the average shall be reported as <QL.

c. Any single datum required shall be reported as “<QL” if it is less than the QL listed in Part I.B.5.a. above. Otherwise, the numerical value shall be reported.

d. Where possible, all limit values on the Part I.A. limits page(s) are expressed in two significant figures. As a

result, single, trailing zeros occurring after any single digit are significant. Effluent limits of 10 or greater are rounded to two significant whole numbers, with the exception that loading limits are expressed as whole numbers.

e. The permittee shall report at least the same number of significant figures as the permit limit for a given parameter. Regardless of the rounding convention used (i.e., 5 always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

7. Materials Handling and Storage

Any and all product, materials, industrial wastes, and/or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation and/or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of and/or stored in such a manner so as not to permit a discharge of such product, materials, industrial wastes and/or other wastes to State waters, except as expressly authorized.

8. Hydrostatic Testing

The permittee shall obtain approval from the DEQ Tidewater Regional Office forty-eight (48) hours in advance of any discharge resulting from hydrostatic testing. The conditions of approval will be contingent on the volume and duration of the proposed discharge and the nature of the residual product. Sampling will be required for characterization of the “first flush”, as a minimum.

Report results with the Discharge Monitoring Report (DMR) for the monitoring period in which sampling and hydrostatic testing occurred.

9. Cooling Water and Boiler Additives

a. If at any time during the life of this permit, the permittee decides to treat any non-contact cooling water unit(s) and/or boiler system(s) with chemical additives [other than those additives currently in use and on file with the DEQ Tidewater Regional Office], the following requirements shall be satisfied.

At least thirty (30) days prior to implementing any chemical addition to the cooling water and/or boiler equipment, the permittee shall **notify the DEQ Tidewater Regional Office, in writing**, of the following:

(1) The chemical additives to be employed and their purpose. Provide to the staff for review, a Material Safety Data Sheet (MSDS) for each proposed additive;

(2) Schedule of additive usage; and,

(3) Wastewater treatment and/or retention to be provided during the use of additives.

b. Should the addition of treatment chemicals significantly alter the characteristics of the effluent from the cooling water and/or boiler unit(s) or their usage becomes persistent or continuous, this permit shall be modified or, alternatively, revoked and reissued to include appropriate limitations or conditions.

10. Sludge Use and Disposal / Sludge Management Plan

The permittee shall conduct all sewage sludge use or disposal activities in accordance with the Sludge Management Plan (SMP) approved with the issuance of this permit. Any proposed changes in the sewage sludge use or disposal practices or procedures followed by the permittee shall be documented and submitted for DEQ and Department of Health approval 90 days prior to the effective date of the changes. Upon approval, the revised SMP becomes an enforceable part of the permit. The permit may be modified or alternatively revoked and reissued to incorporate limitations or conditions necessitated by substantive changes in sewage sludge use or disposal practices.

11. HRSD Reclaimed Water Reuse

The permittee may use reclaimed water (treated municipal wastewater) for identified facility activities (fire main, service water and boiler feed water systems), subject to the following conditions.

a. The permittee shall conduct all reclaimed water reuse in accordance with the concept engineering report (CER) submitted on June 12, 2002, and reiterated within the permit application. The CER was originally approved by the Department on October 6, 2003, and this approval will continue with the issuance of this permit. The CER was amended on August 14, 2006 and the Department is awaiting wastewater characterization prior to approving the proposed discharge option.

b. Reclaimed water used for defined activities shall be at least secondary treatment – basic disinfection reclaimed water, and shall meet the following criteria:

(1) Secondary treatment – basic disinfection

(2) pH 6.0-9.0 standard units

(3) BOD_5 & TSS = 30 mg/l, 30-day avg.

(4) Median fecal coliform bacteria = 200/100 ml, never > 1000/100ml; if chlorine is used, TRC = 1 mg/l after a minimum contact time of 30 minutes.

c. Reclaimed water produced at the reclamation system that fails to meet the reclaimed water quality criteria in 11.b. above, shall not be used in facility operations or transported to the facility. Once the reclaimed water is transported to the facility, it shall not be returned to the source's reclaimed water distribution system.

d. Use Area Control Requirements

(1) There shall be no nuisance conditions resulting from the distribution, transportation, use, or storage of reclaimed water.

(2) The chosen method(s) of use shall reasonably preclude human contact with the reclaimed water.

(3) Reclaimed water shall be prevented from standing on public access areas during the public access areas' normal periods of use.

(4) Reclaimed water shall be prevented from coming into contact with drinking fountains, water coolers, or eating areas.

e. Notification and Advisory Signs

(1) The permittee shall ensure that all employees and contractors are informed about the origin, nature and characteristics of reclaimed water; the manner in which reclaimed water can be safely used; and limitations on the use of reclaimed water.

(2) All reclaimed water piping, valves, outlets and other appurtenances shall be colored purple, taped, or otherwise marked to warn the public, employees and contractors that the source of the water is reclaimed water and the water is not intended for drinking. Where appropriate, this warning shall inform the public, employees and contractors to avoid contact with the water.

(3) If used, tank trucks and other equipment used to transport or distribute reclaimed water shall be clearly identified with advisory signs.

(4) All areas where reclaimed water is used that are public access areas shall be posted with signs that include the following: “CAUTION: RECLAIMED WATER – DO NOT DRINK; CLOSE VEHICLE WINDOWS” together with the equivalent standard international symbol. The size of the sign and lettering used shall be such that it can be easily read by a person with normal vision at a distance of 50 feet. The Board may accept alternate signage and wording, or an educational program, provided that the alternate approach will assure an equivalent degree of public notification.

(5) Similar advisory signs as described above shall be posted adjacent to any reclaimed water storage facilities that are not located at the reclamation system.

f. The permittee shall develop and implement a Plan of Use for utilizing reclaimed water for site activities. The Plan shall be an enforceable part of this permit. The Plan shall include, at a minimum, the following:

(1) Certification of notification to all employees and contractors that they have been informed about the origin, nature and characteristics of reclaimed water; the manner in which reclaimed water can be safely used; and limitations on the use of reclaimed water.

(2) Transport method(s), including location and individual(s) who would receive and transport the reclaimed water from the reclaimed water source.

(3) Hauling route(s).

(4) Designation and detailed listing of responsibility for each step in the process, from getting reclaimed water from the reclaimed water source to the application of the water, to the posting of signs.

(5) Copy of the contract/agreement with the reclaimed water source.

(6) Spill procedures on haul route and upon the facility grounds.

(7) List of emergency contacts at the facility and at all other appropriate agencies and groups.

(8) Certification procedure and confirmation procedure for certification of secondary treatment.

(9) Employee and contractor training procedures and schedule, and certification of proof of training.

g. The Reclaimed Water Reuse plan shall be incorporated into the site’s comprehensive Operations and Maintenance manual (O&M) as a separate section. The permit may be modified or, alternatively, revoked and reissued to incorporate limitations/conditions necessitated by substantive changes in sewage sludge use or disposal practices.

The scope and content of this section of the manual depends upon the complexity of the reclamation and reuse systems. The manual shall contain a contingency plan which will assure that no untreated or inadequately treated wastewater will be delivered to the use areas. Any proposed changes in the reclaimed water reuse at the facility or disposal practices or procedures followed by the permittee shall be documented and submitted for Department of Environmental Quality (DEQ) review and approval 90 days prior to the effective date of the changes. Upon approval, the amended reclaimed water reuse plan becomes an enforceable part of the permit.

C. TOXICS MANAGEMENT PROGRAM

1. Biological Monitoring – Outfalls 001, 002 and 201

a. In accordance with the schedule in 2. below, the permittee shall conduct **annual acute** and **annual chronic** toxicity tests. The permittee shall collect 24-hour, flow proportioned composite samples of final effluent from outfalls 001 and 002. The permittee shall collect a grab sample of final effluent from outfall 201. All toxicity samples shall be taken at the same time as the monitoring in Part I.A. of this permit.

Outfalls 001 and 002

The acute tests to use for outfalls 001 and 002 shall be:
48-Hour Static Acute test using **Americamysis bahia (A.b.)**

Outfall 201

The acute tests to use for outfall 201 shall be:
48 Hour Static Acute test using **Americamysis bahia (A.b.)**
and
48 Hour Static Acute test using **Cyprinodon variegatus (C.v.)**

The acute tests shall be performed with a minimum of 5 dilutions, derived geometrically, for calculation of a valid LC_{50}. Express as the results as TU_a (Acute Toxic Units) by dividing $100/LC_{50}$ for DMR reporting.

Outfalls 001 and 002

The chronic test shall be:
7-Day Static Renewal Survival, Growth and Fecundity test using **Americamysis bahia (A.b.)**

The chronic test shall be conducted in such a manner and at sufficient dilutions (minimum of five dilutions, derived geometrically) to determine the "No Observed Effect Concentration" (NOEC) for survival and reproduction or growth. Results which cannot be quantified (i.e., a “less than” NOEC value) are not acceptable, and a retest will have to be performed.

Express the test NOEC as TU_c (Chronic Toxic Units), by dividing 100/NOEC for DMR reporting. Report the LC_{50} at 48 hours and the IC_{25} with the NOEC's in the test report.

The permittee may provide additional samples to address data variability during the period of initial data generation. These data shall be reported and may be included in the evaluation of effluent toxicity. Test procedures and reporting shall be in accordance with the WET testing methods cited in 40 CFR 136.3.

b. The test dilutions should be able to determine compliance with the following endpoints:

(1) Acute LC_{50} of 100% equivalent to a TU_a of 1.0 for outfalls 001, 002, and 201

(2) Chronic NOEC of 18% equivalent to a TU_c 5.55 for outfall 001

(2) Chronic NOEC 2% of equivalent to a TU_c of 50.0 for outfall 002

c. The test data will be evaluated for reasonable potential at the conclusion of the test period. The data may be evaluated sooner if requested by the permittee, or if toxicity has been noted. Should evaluation of the data indicate that a limit is needed, a WET limit and compliance schedule will be required and the toxicity tests of 1.a. may be discontinued.

d. All applicable data will be reevaluated for reasonable potential at the end of the permit term.

e. If, in the testing according to C.1., any toxicity tests are invalidated, the tests shall be repeated within the testing period that the original test was taken, or if already past that period, within thirty(30) days of notification. If there is no discharge during this period, a sample must be taken during the first discharge.

2. Reporting Schedule:

The permittee shall report the results and supply **one** complete copy of the toxicity test reports specified in this Toxics Management Program to the Tidewater Regional Office. A complete report must contain a copy of all laboratory benchsheets, certificates of analysis, and all chains of custody. All data shall be submitted by the 10^{th} of the month following sampling. Sampling and reporting shall be in accordance with the following schedule:

(a)	**Conduct first annual acute biological test for outfalls 001, 002, and 201 and conduct first annual chronic biological test for outfalls 001 and 002**	**By December 31, 2011**
(b)	**Submit results of biological test**	**By the 10th of the month following sampling but no later than January 10, 2012**
(c)	**Conduct subsequent annual biological tests for outfalls 001, 002, and 201**	**By December 31, 2012, 2013, and 2014**
(d)	**Submit results of all biological tests**	**By the 10th of the month following sampling but no later than January 10, 2013, 2014, 2015**

D. STORM WATER MANAGEMENT CONDITIONS

1. Sampling Methodology for Specific Outfalls 002

The following shall be required when obtaining samples required by Part I.A. of this permit:

a. At the time of sampling, the permittee shall ensure that the effects of tidal influences are kept to an absolute minimum. This can be achieved by:

(1) Sampling at low tide and/or

(2) Sampling at a representative point which has been demonstrated to be free of tidal influences

b. In the event that sampling of an outfall is not possible due to the absence of effluent flow during a particular testing period, the permittee shall provide written notification to DEQ Tidewater Regional Office with the DMR for the month following the period in which samples were to be collected.

2. General Storm Water Conditions

a. Sample Type

For all storm water monitoring required in Part I.A. or other applicable sections of this permit, a minimum of one grab sample shall be taken. Unless otherwise specified, all such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the permittee shall document with the SWP3 a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must

attempt to sample the storm water discharge before it mixes with the nonstorm water discharge.

b. Recording of Results

For each storm event monitored under Part I.A. of this permit, the permittee shall record and retain on site with the SWP3 the following information:

(1) The date and duration (in hours) of the storm event(s) sampled;

(2) The rainfall measurements or estimates (in inches) of the storm event which generated the sampled discharge; and

(3) The duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event.

In addition, the permittee shall maintain a monthly log documenting the amount of rainfall received at this facility on a daily basis. This information shall be retained on site with the SWP3.

c. Sampling Waiver

When a permittee is unable to collect storm water samples required in Part I.A. or other applicable sections of this permit within a specified sampling period due to adverse climatic conditions, the permittee shall collect a substitute sample from a separate qualifying event in the next period and submit these data along with the data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

d. Representative Discharge

When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes substantially identical effluents are discharged, and the DEQ Tidewater Regional Office has approved them as such, the permittee may test the effluent of one of such outfalls and report that the quantitative data also apply to the substantially

identical outfall(s) provided that the permittee includes in the SWP3 a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [(i.e., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

e. Quarterly Visual Examination of Storm Water Quality

Unless another more frequent schedule is established elsewhere within this permit, the permittee shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall. The examination(s) must be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December.

(1) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examination shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previous measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

(2) Visual examination reports must be maintained onsite with the SWP3. The report shall include the outfall location, the examination date and time,

examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the SWP3 a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (i.e., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)) shall be provided in the plan.

(4) When the permittee is unable to conduct the visual examination due to adverse climatic conditions, the permittee must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

f. Releases of Hazardous Substances or Oil in Excess of Reportable Quantities

The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable SWP3 for the facility. This permit does not authorize the discharge of hazardous substances or oil resulting from an onsite spill. Where a release containing a

hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110 (1998), 40 CFR 117 (1998) or 40 CFR 302 (1998) occurs during a 24-hour period, the permittee is required to notify the Department in accordance with the requirements of Part II.G. of this permit as soon as he or she has knowledge of the discharge. In addition, the storm water pollution prevention plan required by this permit must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate. This permit does not relieve the permittee of the reporting requirements of 40 CFR 110 (1998), 40 CFR 117 (1998) and 40 CFR 302 (1998) or ? 62.1-44.34:19 of the Code of Virginia.

g. Allowable Non-Storm Water Discharges

(1). The following non-storm water discharges are authorized by this permit provided the non-storm water component of the discharge is in compliance with Part g.(2), below.

(a) Discharges from fire fighting activities;

(b) Fire hydrant flushings;

(c) Potable water including water line flushings;

(d) Uncontaminated air conditioning or compressor condensate;

(e) Irrigation drainage;

(f) Landscape watering provided all pesticides, herbicides, and fertilizers have been applied in accordance with manufacturer’s instructions;

(g) Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);

(h) Routine external building wash down which does not use detergents;

(i) Uncontaminated ground water or spring water;

(j) Foundation or footing drains where flows are not contaminated with process materials such as solvents;

(k) Incidental windblown mist from cooling towers that collects on rooftops or adjacent

portions of the facility, but NOT intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

(2). For all regularly-occurring discharges listed in g.(1) above that occur in industrial areas, the Storm Water Pollution Prevention Plan must include:

(a) Identification of each allowable non-storm water source;

(b) The location where the non-storm water is likely to be discharged; and

(c) Descriptions of any BMPs that are being used for each source.

(3). If mist blown from cooling towers is included as one of the allowable non-storm water discharges from the facility, the permittee must specifically evaluate the potential for the discharges to be contaminated by chemicals used in the cooling tower, and must select and implement BMPs to control such discharges so that the levels of cooling tower chemicals in the discharges would not cause or contribute to a violation of an applicable water quality standard.

3. Storm Water Pollution Prevention Plan (SWP3)

A storm water pollution prevention plan (SWP3)shall be developed for the facility. The SWP3 shall be prepared in accordance with good engineering practices. The SWP3 shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the SWP3 shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. The permittee must implement the provisions of the SWP3 as a condition of this permit.

The SWP3 requirements of this permit may be fulfilled by incorporating by reference other plans or documents such as an erosion and sediment control plan, a spill prevention control and countermeasure (SPCC) plan developed for the facility under Section 311 of the Clean Water Act or best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWP3 requirements of this section. If an erosion and sediment control plan is being incorporated by reference, it shall have been approved by the locality in which the activity is to occur or by another appropriate plan approving authority

authorized under the Virginia Erosion and Sediment Control Regulation 4 VAC 50-30-10 et seq. All plans incorporated by reference into the SWP3 become enforceable under this permit.

a. Deadlines for SWP3 Preparation and Compliance

Existing Facilities

The SWP3 which was previously prepared and implemented shall be complied with, and continually updated as needed in accordance with sections b., c., d. and e. below.

(1) Measures That Require Construction

In cases where construction is necessary to implement measures required by the SWP3, the SWP3 shall contain a schedule that provides compliance with the plan as expeditiously as practicable, but no later than 3 years after the effective date of the permit. Where a construction compliance schedule is included in the SWP3, the schedule shall include appropriate nonstructural and/or temporary controls to be implemented in the affected portion(s) of the facility prior to completion of the permanent control measure.

b. Signature and SWP3 Review

(1) Signature/Location

The SWP3 shall be signed in accordance with Part II.K. of this permit and be retained onsite at the facility which generates the storm water discharge in accordance with Part II.B. of this permit. For inactive facilities, the SWP3 may be kept at the nearest office of the permittee.

(2) Availability

The permittee shall make the SWP3, annual site compliance inspection report, or other information available to the DEQ upon request.

(3) Required Modifications

The Tidewater Regional Office may notify the permittee at any time that the SWP3 does not meet one or more of the minimum requirements of the permit. Such notification shall identify those provisions of the permit which are not being met by the SWP3, and identify which provisions of the plan require modifications in order to meet the minimum

requirements of this permit. Within 60 days of such notification, the permittee shall make the required changes to the SWP3 and shall submit to the DEQ Tidewater Regional Office a written certification that the requested changes have been made.

c. Keeping SWP3s Current

The permittee shall amend the SWP3 whenever there is a change in design, construction, operation, or maintenance which has a significant effect on the potential for the discharge of pollutants to surface waters of the State or if the SWP3 proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under section d. below, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. New owners shall review the existing SWP3 and make appropriate changes. Amendments to the plan may be reviewed by the Department in the same manner as noted in section b. above.

d. Contents of SWP3

The contents of the SWP3 shall comply with the requirements listed below and those in Part I._.5. (Facility-specific Storm Water Conditions) of this permit; these requirements are cumulative. The SWP3 shall include, at a minimum, the following items.

(1) Pollution Prevention Team

The SWP3 shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the SWP3 and assisting the facility or plant manager in its implementation, maintenance, and revision. The SWP3 shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's SWP3.

(2) Description of Potential Pollutant Sources

The SWP3 shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or that may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. The SWP3 shall identify all activities and significant materials

which may potentially be significant pollutant sources. The SWP3 shall include, at a minimum:

(a) Drainage

i. A site map indicating an outline of the portions of the drainage area of each storm water outfall within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under section (2)(c) below have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; locations used for the treatment, storage or disposal of wastes and wastewaters; locations used for the treatment, filtration or storage of water supplies; liquid storage tanks; processing areas; and, storage areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of these outfalls.

ii. For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in the storm water discharges. Factors to consider include: the toxicity of chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and, history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials

An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years prior to the effective date of this permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of three years prior to the effective date of this permit and the present; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks

A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the effective date of this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data

A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources

A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and, on-site waste disposal practices and wastewater treatment activities to include sludge drying, storage,

application or disposal activities. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, total suspended solids, etc.) of concern shall be identified.

(3) Measures and Controls

The permittee shall develop a description of storm water management controls appropriate for the facility and implement these controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls.

(a) Good Housekeeping

Good housekeeping requires the clean and orderly maintenance of areas which may contribute pollutants to storm water discharges. The SWP3 shall describe procedures performed to minimize contact of materials with storm water runoff. Particular attention should be paid to areas where raw materials are stockpiled, material handling areas, storage areas, liquid storage tanks, material handling areas, and loading/unloading areas.

(b) Preventive Maintenance

A preventive maintenance program shall involve: timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins); inspection and testing of facility equipment and systems to uncover conditions that could cause breakdowns or failures which could result in discharges of pollutants to surface waters; and, appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures

Areas where potential spills may occur which can contribute pollutants to storm water discharges, and their accompanying drainage points shall be identified clearly in the

SWP3. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the SWP3 and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to the appropriate personnel.

(d) Inspections

In addition to or as part of the comprehensive site compliance evaluation required under section d.(4) below, qualified facility personnel who are familiar with the industrial activity, the Best Management Practices (BMPs) and the SWP3 shall be identified to inspect designated equipment and areas of the facility at appropriate intervals. The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly unless more frequent intervals are specified elsewhere in the permit. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained with the pollution prevention plan.

(e) Employee Training

Employee training programs shall inform personnel responsible for implementing activities identified in the SWP3 or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The SWP3 shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures

A description of incidents such as spills, or other discharges, along with other information describing the quality and

quantity of storm water discharges shall be included in the SWP3. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Sediment and Erosion Control

The SWP3 shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(h) Management of Runoff

The SWP3 shall contain a narrative consideration of the appropriateness of traditional storm water management practices [practices other than those which control the generation or source(s) of pollutants] used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The SWP3 shall provide for the implementation and maintenance of measures that the permittee determines to be reasonable and appropriate. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices; reuse of collected storm water (such as for a process or as an irrigation source); inlet controls (such as oil/water separators); snow management activities; infiltration devices; wet detention/retention devices; or, other equivalent measures.

(4) Comprehensive Site Compliance Evaluation

Qualified facility personnel who are familiar with the industrial activity, the BMPs and the SWP3 shall conduct site compliance evaluations at appropriate intervals specified in the SWP3, but, in no case less than once a year during the permit term. Such evaluations shall include the following.

(a) Areas contributing to a storm water discharge associated with industrial activity, such as material storage, handling and disposal activities, shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the SWP3 shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the SWP3, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the SWP3 in accordance with section d.(2) above and pollution prevention measures and controls identified in the SWP3 in accordance with section d.(3) above shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the SWP3 in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the SWP3, and actions taken in accordance with section (4)(b) above shall be made and retained as part of the SWP3 for at least three years from the date of the evaluation. The report shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the SWP3 and this permit. The report shall be signed in accordance with Part II.K. of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under section d.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

e. Special Pollution Prevention Plan Requirements

In addition to the minimum standards listed in section d. above and those in Part I._.5. (Facility-specific Storm Water Conditions) of this permit, the SWP3 shall include a complete discussion of measures taken to conform with the following applicable guidelines.

(1) Additional Requirements for Storm Water Discharges Associated with Industrial Activity from Facilities Subject to Emergency Planning and Community Right-to Know Act (EPCRA) Section 313 Requirements

In addition to the requirements of Part I._.5. (Facility-specific Storm Water Conditions) of this permit, and other applicable conditions of this permit, SWP3s for facilities subject to reporting requirements under EPCRA Section 313 prior to May 1, 1997, for chemicals which are classified as Section 313 water priority chemicals in accordance with the definition at the end of this section, except as provided in section e.(1)(b)ii. below, and where there is the potential for these chemicals to mix with storm water discharges, shall describe and ensure the implementation of practices which are necessary to provide for conformance with the following guidelines.

(a) In areas where Section 313 water priority chemicals are stored, processed or otherwise handled, appropriate containment, drainage control and/or diversionary structures shall be provided unless otherwise exempted under section e.(1)(c) below. At a minimum, one of the following preventive systems or its equivalent shall be used:

i. Curbing, culverting, gutters, sewers or other forms of drainage control to prevent or minimize the potential for storm water runon to come into contact with significant sources of pollutants; or

ii. Roofs, covers or other forms of appropriate protection to prevent storage piles from exposure to storm water and wind.

(b) In addition to the minimum standards listed under section e.(1) above and except as otherwise exempted under section e.(1)(c) below, the SWP3 shall include a complete

discussion of measures taken to conform with other effective storm water pollution prevention procedures, and applicable state rules, regulations, and guidelines.

i. Liquid Storage Areas Where Storm Water Comes Into Contact with Any Equipment, Tank, Container, or Other Vessel Used for Section 313 Water Priority Chemicals

- No tank or container shall be used for the storage of a Section 313 water priority chemical unless its material and construction are compatible with the material stored and conditions of storage such as pressure, temperature, etc.

- Liquid storage areas for Section 313 water priority chemicals shall be operated to minimize discharges of these chemicals. Appropriate measures to minimize discharges of Section 313 water priority chemicals may include secondary containment provided for at least the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation, a strong spill contingency and integrity testing plan, and/or other equivalent measures.

ii. Material Storage Areas for Section 313 Water Priority Chemicals Other Than Liquids

Material storage areas for Section 313 water priority chemicals other than liquids which are subject to storm water runoff, leaching, or wind effects shall incorporate drainage or other control features which will minimize the discharge of Section 313 water priority chemicals by reducing storm water contact with those chemicals.

iii. Truck and Rail Car Loading and Unloading Areas for Liquid Section 313 Water Priority Chemicals

Truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals shall be operated to minimize discharges of those chemicals. Protection such as overhangs or door skirts to enclose trailer ends at truck loading/unloading docks shall be provided as appropriate. Appropriate measures to minimize discharges of Section 313 chemicals may include: the placement and maintenance of drip pans (including the proper disposal of materials collected in the drip pans) where spillage may occur (such as hose connections, hose reels and filler nozzles) when making and breaking hose connections; a strong spill contingency and integrity testing plan; and/or other equivalent measures.

iv. Areas Where Section 313 Water Priority Chemicals are Transferred, Processed or Otherwise Handled

Processing equipment and materials handling equipment shall be operated so as to minimize discharges of Section 313 water priority chemicals. Materials used in piping and equipment shall be compatible with the substances handled. Drainage from process and materials handling areas shall minimize storm water contact with Section 313 water priority chemicals. Additional protection such as covers or guards to prevent exposure to wind effects, spraying or releases from pressure relief vents from causing a discharge of Section 313 water priority chemicals to the drainage system shall be provided as appropriate. Visual inspections or leak tests shall be provided for overhead piping conveying Section 313 water priority chemicals without secondary containment.

v. Discharges from Areas Covered by Paragraphs i., ii., iii. or iv.

- Drainage from areas covered by paragraphs i., ii., iii. or iv. of this section should be restrained by valves or other positive means

to prevent the discharge of a spill or other excessive leakage of Section 313 water priority chemicals. Where containment units are employed, such units may be emptied by pumps or ejectors; however, these shall be manually activated.

- Flapper-type drain valves shall not be used to drain containment areas. Valves used for the drainage of containment areas should, as far as is practical, be of manual, open-and-closed design.

- If facility drainage is not engineered as above, the final discharge of all in-facility storm sewers shall be equipped to be equivalent with a diversion system that could, in the event of an uncontrolled spill of Section 313 water priority chemicals, return the spilled material to the facility.

    - Records shall be kept of the frequency and estimated volume (in gallons) of discharges from containment areas.

vi. Facility Site Runoff Other Than From Areas Covered by i., ii., iii. or iv.

Other areas of the facility [those not addressed in paragraphs i., ii., iii. or iv.], from which runoff which may contain Section 313 water priority chemicals or where spills of Section 313 water priority chemicals could cause a discharge, shall incorporate the necessary drainage or other control features to prevent discharge of spilled or improperly disposed material and ensure the mitigation of pollutants in storm water runoff or leachate.

vii. Preventive Maintenance and Housekeeping

All areas of the facility shall be inspected at specific intervals

identified in the SWP3 for leaks or conditions that could lead to discharges of Section 313 water priority chemicals or for direct contact of storm water with raw materials, intermediate materials, waste materials or products. In particular, facility piping, pumps, storage tanks and bins, pressure vessels, process and material handling equipment, and material bulk storage areas shall be examined for any conditions or failures which could cause a discharge. Inspection shall include examination for leaks, corrosion, support or foundation failure, effects of wind blowing, or other forms of deterioration or noncontainment. Inspection intervals shall be specified in the plan and shall be based on design and operational experience. Different areas may require different inspection intervals. Where a leak or other condition is discovered which may result in significant releases of Section 313 water priority chemicals to waters of the State, action to stop the leak or otherwise prevent the significant release of Section 313 water priority chemicals to waters of the State shall be immediately taken or the unit or process shut down until such action can be taken. When a leak or noncontainment of a Section 313 water priority chemical has occurred, contaminated soil, debris, or other material must be promptly removed and disposed in accordance with Federal, State, and local requirements and as described in the plan.

viii. Facility Security

Facilities shall have the necessary security systems to prevent accidental or intentional entry which could cause a discharge. Security systems described in the plan shall address fencing, lighting, vehicular traffic control, and securing of equipment and buildings.

ix. Training

Facility employees and contractor personnel that work in areas where

Section 313 water priority chemicals are used or stored shall be trained in and informed of preventive measures at the facility. Employee training shall be conducted at intervals specified in the plan, but not less than once per year. Training shall address pollution control laws and regulations, the SWP3 and the particular features of the facility and its operation which are designed to minimize discharges of Section 313 water priority chemicals. The SWP3 shall designate a person who is accountable for spill prevention at the facility and who will set up the necessary spill emergency procedures and reporting requirements so that spills and emergency releases of Section 313 water priority chemicals can be isolated and contained before a discharge of those chemicals can occur. Contractor or temporary personnel shall be informed of facility operation and design features in order to prevent discharges or spills from occurring.

(c) Facilities subject to reporting requirements under EPCRA Section 313 for chemicals that are classified as Section 313 water priority chemicals, in accordance with the definition at the end of this section, that are handled and stored onsite only in gaseous or nonsoluble liquid or solid (at atmospheric pressure and temperature) forms may provide a certification as such in the SWP3 in lieu of the additional requirements in section e.(1) above. Such certification shall include a narrative description of all water priority chemicals and the form in which they are handled and stored, and shall be signed in accordance with Part II.K. of this permit.

(d) The SWP3 shall be certified in accordance with Part II.K. of this permit.

(2) Requirements for Salt Storage

Storage piles of salt used for deicing or other commercial or industrial purposes and which generate a storm water discharge associated with industrial activity which is discharged to surface waters of the State shall be enclosed or covered to prevent exposure to precipitation, except for

exposure resulting from adding or removing materials from the pile. Permittees shall demonstrate compliance with this provision as expeditiously as practicable, but in no event later than 3 years from the effective date of this permit. Annual reports of progress towards compliance shall be compiled and added to the Pollution Prevention Plan. Piles do not need to be enclosed or covered where storm water from the pile is not discharged to surface waters of the State.

(2) Requirements for Salt Storage

Storage piles of salt used for deicing or other commercial or industrial purposes and which generate a storm water discharge associated with industrial activity which is discharged to surface waters of the State shall be enclosed or covered to prevent exposure to precipitation, except for exposure resulting from adding or removing materials from the pile. Piles do not need to be enclosed or covered where storm water from the pile is not discharged to surface waters of the State.

"Section 313 Water Priority Chemicals" means a chemical or chemical categories which: 1) are listed at 40 CFR Part 372.65 (1998) pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986) (42 USC 11001 et seq.); 2) are present at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and 3) that meet at least one of the following criteria: (i) are listed in Appendix D of 40 CFR Part 122 (1998) on either Table II (organic priority pollutants), Table III (certain metals, cyanides and phenols) or Table V (certain toxic pollutants and hazardous substances); (ii) are listed as a hazardous substance pursuant to section 311(b)(2)(A) of the Clean Water Act at 40 CFR Part 116.4 (1998); or (iii) are pollutants for which EPA has published acute or chronic water quality criteria.

4. Facility-specific Storm Water Conditions-Oil and Gas Extraction and Refining.

a. Discharges covered under this section.

The requirements listed under this section apply to storm water discharges associated with industrial activity from oil and gas extraction and refining facilities listed under SIC Major Group 13 which have had a discharge of a reportable quantity (RQ) of oil or a hazardous substance for which notification is required under 40 CFR 110.6 (2002), 40 CFR 117.21 (2002) or 40

CFR 302.6 (2002). These include oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with any overburden raw material, intermediate products, finished products, by-products or waste products located on the site of such operations. Industries in SIC Major Group 13 include the extraction and production of crude oil, natural gas, oil sands and shale; the production of hydrocarbon liquids and natural gas from coal; and associated oilfield service, supply and repair industries. This section also covers petroleum refineries listed under SIC Code 2911.

Contaminated storm water discharges from petroleum refining or drilling operations that are subject to nationally established BAT or BPT guidelines found at 40 CFR Part 419 (2002) and 40 CFR Part 435 (2002) respectively are not authorized by this permit.

Note: most contaminated discharges from petroleum refining and drilling facilities are subject to these effluent guidelines and are not eligible for coverage under this permit.

b. Special conditions.

Prohibition of nonstorm water discharges. In addition to the general prohibition of nonstorm water discharges, the following discharges are not covered by this section of the permit: discharges of vehicle and equipment washwater, including tank cleaning operations. Alternatively, washwater discharges must be authorized under a separate VPDES permit, or be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.

c. Storm water pollution prevention plan requirements.

In addition to the requirements of Part I.D.3., the SWP3 shall include, at a minimum, the following items.

(1) Site description.

(a) Site map.

The site map shall identify where any of the following may be exposed to precipitation/surface runoff: reportable quantity (RQ) releases; locations used for the treatment, storage or disposal of wastes; processing areas and storage areas; chemical mixing areas; construction and drilling

areas; all areas subject to the effluent guidelines requirement of "No Discharge" in accordance with 40 CFR 435.32 (2002) and the structural controls to achieve compliance with the "No Discharge" requirement.

(b) Summary of potential pollutant sources.

i. The plan shall also include a description of the potential pollutant sources from the following activities: chemical, cement, mud or gel mixing activities; drilling or mining activities; and equipment cleaning and rehabilitation activities.

ii. The plan must include information about the RQ release which triggered the permit application requirements , including: the nature of the release (e.g., spill of oil from a drum storage area); the amount of oil or hazardous substance released; amount of substance recovered; date of the release; cause of the release (e.g., poor handling techniques and lack of containment in the area); areas affected by the release, including land and waters; procedure to cleanup release; actions or procedures implemented to prevent or improve response to a release; and remaining potential contamination of storm water from release (taking into account human health risks, the control of drinking water intakes, and the designated uses of the receiving water).

(2) Storm water controls.

(a) Routine facility inspections.

All equipment and areas addressed in the SWPPP shall be inspected at a minimum of six-month intervals. Equipment and vehicles which store, mix (including all on-site and off-site mixing tanks) or transport chemicals/hazardous materials (including those transporting supplies to oil field activities) will be inspected at least quarterly. For temporarily or permanently inactive oil and gas extraction facilities within Major SIC Group 13, which are remotely

located and unstaffed, the inspections shall be performed at least annually.

(b) Sediment and erosion control.

Unless covered by another VPDES permit, the additional erosion control requirement for well drillings and sand/shale mining areas are as follows:

i. Site description.

Each plan shall provide a description of the following:

- A description of the nature of the exploration activity;

- Estimates of the total area of the site and the area of the site that is expected to be disturbed due to the exploration activity;

- An estimate of the runoff coefficient of the site;

- A site map indicating drainage patterns and approximate slopes; and

- The name of all receiving water(s).

ii. Vegetative controls.

The SWPPP shall include a description of vegetative practices designed to preserve existing vegetation where attainable and revegetate open areas as soon as practicable after grade drilling. Such practices may include: temporary or permanent seeding, mulching, sod stabilization, vegetative buffer strips, tree protection practices. The permittee shall initiate appropriate vegetative practices on all disturbed areas within 14 calendar days of the last activity at that area.

iii. Off-site vehicle tracking of sediments shall be minimized.

iv. Procedures in the plan shall provide that all erosion controls on the site are inspected at least once every seven calendar days.

(3) Good housekeeping measures.

(a) Vehicle and equipment storage areas.

The storage of vehicles and equipment awaiting or having completed maintenance must be confined to designated areas (delineated on the site map). The plan must describe measures that prevent or minimize contamination of the storm water runoff from these areas (e.g., drip pans under equipment, indoor storage, use of berms and dikes, or other equivalent measures.

(b) Materials and chemical storage areas. Storage units of all chemicals and materials must be maintained in good condition so as to prevent contamination of storm water. Hazardous materials must be plainly labeled.

(c) Chemical mixing areas. The plan must describe measures that prevent or minimize contamination of the storm water runoff from chemical mixing areas.

CONDITIONS APPLICABLE TO ALL VPDES PERMITS

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under Title 40 Code of Federal Regulations Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:

   a. The date, exact place, and time of sampling or measurements;

   b. The individual(s) who performed the sampling or measurements;

   c. The date(s) and time(s) analyses were performed;

   d. The individual(s) who performed the analyses;

   e. The analytical techniques or methods used; and

   f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the Board.

C. Reporting Monitoring Results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to:

   Department of Environmental Quality
   Tidewater Regional Office
   5636 Southern Boulevard
   Virginia Beach, VA 23462

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the Department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under Title 40 of the Code of Federal Regulations Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the Department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to Provide Information.

The permittee shall furnish to the Department, within a reasonable time, any information which the Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

E. Compliance Schedule Reports.

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized Discharges.

Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of Unauthorized Discharges.

Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the Department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

2. The cause of the discharge;

3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;

7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the Department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of Unusual or Extraordinary Discharges.

If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the Department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the Department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;

2. Breakdown of processing or accessory equipment;

3. Failure or taking out of service some or all of the treatment works; and

4. Flooding or other acts of nature.

I. Reports of Noncompliance

The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:

   a. Any unanticipated bypass; and

   b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within 5 days and shall contain:

   a. A description of the noncompliance and its cause;

   b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

   c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The Board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: The immediate (within 24 hours) reports required in Parts II G, H and I may be made to the Department's Regional Office at (757) 518-2000 (voice) or (757) 518-2009 (fax). For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24 hour telephone service at 1-800-468-8892.

J. Notice of Planned Changes.

1. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

   a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

      (1) After promulgation of standards of performance under Section 306 of Clean Water Act which are applicable to such source; or

      (2) After proposal of standards of performance in accordance with Section 306 of Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal;

   b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

   c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit,

including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory Requirements.

1. Applications. All permit applications shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the Board shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

   a. The authorization is made in writing by a person described in Part II K 1;

   b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

   c. The written authorization is submitted to the Department.

3. Changes to Authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the Department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts II K 1 or 2 shall make the following certification:

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to Comply.

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the

State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to Reapply.

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Board. The Board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

N. Effect of a Permit.

This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State Law.

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by Section 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U), and "upset" (Part II V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and Hazardous Substance Liability.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Sections 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper Operation and Maintenance.

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of Solids or Sludges.

Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to Mitigate.

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to Halt or Reduce Activity not a Defense.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts II U 2 and U 3.

2. Notice

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least ten days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the Board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II U 2.

b. The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed above in Part II U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part II I; and

d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and Entry.

The permittee shall allow the Director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit Actions.

Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the Department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:

   a. The current permittee notifies the Department at least 30 days in advance of the proposed transfer of the title to the facility or property;

   b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

   c. The Board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability.

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.